IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

ANTHA D. ROACH,   )
)
)
            Plaintiff,   )
)
vs.   )   Case No. 1:08-cv-00068-DAS
)
MICHAEL J. ASTRUE,   )
COMMISSIONER OF   )
SOCIAL SECURITY,   )
)
            Defendant.   )

ORDER OF REVERSAL AND REMAND

On motion of Michael J. Astrue, Commissioner of the Social
Security Administration, pursuant to sentence six of section
205(g) of the Social Security Act, 42 U.S.C. § 405(g), this Court
hereby remands the Commissioner's decision.

The ALJ in the case had essentially adopted the opinion of
Plaintiff's treating physician, Dr. Bibighaus, in assessing
Plaintiff's residual functional capacity. Therefore, the ALJ's
residual functional capacity assessment had included limitations
restricting squatting, kneeling, and crawling based on the
doctor's opinion (Tr. 42-43). The ALJ further explained that the
doctor had not opined that Plaintiff had any restrictions in
bending or stooping, and his residual functional capacity
therefore excluded those limitations (Tr. 42-43).

However, Plaintiff has now submitted a July 28, 2008,
opinion from Dr. Bibighaus. Dr. Bibighaus's updated opinion
stated that Plaintiff "has permanent restrictions [with] no

squatting, kneeling, crawling, or jumping. No bending or stooping." Because this new evidence appeared to relate to the proper time period, and might have changed the ALJ's decision, remand is necessary to reevaluate Plaintiff's limitations in light of the doctor's updated opinion. <u>See</u> <u>Haywood v. Sullivan</u>, 888 F.2d at 1471 (citing 42 U.S.C. § 405(g)) (discussing judicial review of new evidence under the Act); <u>Castillo v. Barnhart</u>, 325 F.3d 550, 551 (5th Cir. 2003). Under sentence six remand, this Court retains jurisdiction until the post-remand proceedings are completed and the Commissioner has filed the results with this Court. <u>See</u> <u>Shalala v. Schaefer</u>, 509 U.S. 292, 297 (1993).

SO ORDERED this 7th day of January, 2009.

<u>/s/ David A. Sanders</u>
UNITED STATES MAGISTRATE JUDGE